(3)

No. 90-1150

FILED
JUL 30 1991
OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1991

DONALD J. WILLY,

Petitioner,

versus

THE COASTAL CORPORATION, ET AL.,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

JOINT APPENDIX

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PETITION FOR CERTIORARI FILED JANUARY 17, 1991
CERTIORARI GRANTED JUNE 17, 1991

TABLE OF CONTENTS

Page

Relevant Docket Entries in the District Court 1

Relevant Docket Entries in the Court of Appeals 13

Order Granting Certiorari 14

Note: The opinions and orders of the district court and court of appeals are reproduced as an appendix to the petition for certiorari at the following pages:

Opinion of the United States District Court for the Southern District of Texas (November 12, 1986) A-1

Order for Sanctions of the United States District Court for the Southern District of Texas (November 12, 1986) A-6

Opinion of the United States Court of Appeals for the Fifth Circuit (September 29, 1988) A-9

Order for Sanctions of the United States District Court for the Southern District of Texas (April 17, 1989) A-40

Opinion of the United States Court of Appeals for the Fifth Circuit (October 26, 1990) A-48

Judgment of the United States Court of Appeals for the Fifth Circuit (October 26, 1990) A-56

Order Denying Petition for Rehearing and Suggestion for Rehearing En Banc (November 27, 1990) A-56

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Civil Action No. H-85-6947

DONALD J. WILLY

VS.

THE COASTAL CORPORATION, ET AL.

Relevant Docket Entries

12-30-85	1	PETITION FOR REMOVAL, filed. (a) Original Petition (b) Citation
12-30-85	2	BOND FOR REMOVAL, filed. (Surety)
1-7-86	3	Deft's MOTION TO STRIKE, filed. db M/D Jan 27, 1986 by clerk.
1-7-86	4	Deft's MEMORANDUM OF LEGAL Authorities in support of defts' Motion to strike, filed. db
1-7-86	5	Defts' ANSWER AND COUNTERCLAIMS of the Coastal Corp and Coastal States Management Co., filed. db dkt'd 1-7-86
1-17-86		Rtn to Pltf motion to Remand, no stmt. kk

1-17-86	6	Pltf's MOTION TO REMAND, filed. tjl Dktd 1-21-86 OPPOSED m/d Feb 10, 1986 by clerk.
1-17-86	7	BRIEF IN SUPPORT of Pltf's Motion to Remand, filed. tjl Dktd 1-21-86
1-17-86	8	Pltf's REPLY to Motion to Strike, filed. tjl Dktd 1-21-86
1-17-86	9	Pltf's ANSWER to Defts Counterclaims Presenting Defenses under Rule 12(b), filed. tjl Dktd 1-22-86
1-29-86	12	AFFIDAVIT IN SUPPORT OF PLTF'S MOTION TO REMAND, filed. wl Dkt'd 1-31-86
2-3-86	13	Pltf's MOTION TO DISQUALIFY COUNSEL. filed. fs dkt'd 2-5-86 (Opposed) M/D 2-24-86 by clerk.
2-10-86	14	Deft's BRIEF IN OPPOSITION to pltf's Motion to Remand, filed. db dkt'd 2-11-86
2-24-86	15	Defts' BRIEF IN RESPONSE to Pltf's Motion to Disqualify Counsel. filed. fs dtk'd 2-26-86
3-19-86	16	Pltf's MOTION FOR PROTECTIVE ORDER, filed. jrl Dktd 3-26-86 (Opposed) M/D Apr 14, 86 by Clerk
3-19-86	17	Pltf's MOTION FOR SANCTIONS, filed. jrl (Opposed) Dktd 3-26-86 M/D Apr 14, 86 by Clerk
3-19-86	18	Pltf's SUPPLEMENTAL BRIEF, filed. jrl Dktd 3-26-86
4-7-86	19	Deft's MOTION FOR A TEMPORARY RESTRAINING ORDER and PRELIMINARY INJUNCTION, filed. db

4-7-86	20	MEMORANDUM OF LAW in support of Deft's Motion for TRO and Preliminary Injunction, filed. db
4-7-86	21	Deft's MOTION FOR PROTECTIVE ORDER and to SEAL THE RECORD, filed. db
4-8-86		Pts ntfd by t/c: TRO Hrg SET on Apr 10, 86; 9:15 a.m.MB/jrl Dktd 4-9-86
4-11-86	23	(JVS) ORDER, filed. Parties ntfd. jl Dktd 4-14-86 Order filing a Motion Conference held 4/10/86 1. Pltf's Motion to Remand is DENIED. 2. Pltf's Feb 3rd Motion to Disqualify Deft's Counsel and Mar 19th Motion for Sanctions are both DENIED. 3. Deft's Motion for a Temporary Restraining Order & Prel Injunction is DENIED. 4. Deft's Jan 7th Motion to Strike is GRANTED. 5. Pltf's Mar 29th Motion for Protective Order Deft's Apr 7th Motion for Protective Order & To Seal The Record are MOOT. Parties SHALL SUBMIT their protective order to Court for entry.
5-30-86	28	Defts' MOTION TO STAY Discovery, or in the Alternative, For a Protective Order, filed. jl M/D Jun 23, 86 By Clerk Dktd 6-2-86

6-10-86 29 Defts' MOTION TO DISMISS, filed jl
M/D Jun 30, 86 by Clerk
Dktd 6-11-86

6-10-86 30 Defts' MEMORANDUM of Law in Support of Motion to Dismiss, filed. jl
Dktd 6-11-86

6-20-86 31a Pltf's MOTION FOR PARTIAL SUMMARY JUDGMENT, filed. jl
(Opposed)
M/D Jul 15, 86 by Clerk
Dktd 7-2-86

6-20-86 32 Pltf's MOTION FOR PERMISSION TO SPECIALLY FILE SUPPORTING Documentation, filed. jl
Dktd 7-2-86

6-20-86 33 Pltf's BRIEF in Support of Partial Summary Judgment, filed. jl
Dktd 7-2-86

7-3-86 34 Pltf's REPLY BRIEF on Deft's Motion to Dismiss and SPECIAL BRIEF on Attorney-Client Obligations of Pltf., filed. jl
Dktd 7-7-86

7-8-86 Rec'd Amended certificate of Service and local Rule 14 Counsel Conference inst# 33 fwd to fileroom. sas

7-18-86 35 Pltf's MOTION TO FILE DOCUMENTS IN SUPPORT OF SUMMARY JUDGMENT filed. sas
M/D Aug 11, 1986 by clerk
Dkt'd 8-7-86

7-18-86 36 Pltf's SUPPLEMENTAL BRIEF TEXAS LAW OF EMPLOYMENT AT WILL, filed. sas
Dkt'd 8-7-86

8-7-86 Per JVS Revised Division of Business Order of 6-12-86, this case is transferred to the docket of Judge

Hittner effective 7-1-86 in order equalize cases pending among all judges. sas

8-8-86 Rec'd 4 volumes of Pltf's EVIDENCE IN SUPPORT OF SUMMARY JUDGMENT to be attached to Instrument 31a and fwd to file room. jlp

8-12-86 37 Defts RESPONSE to pltfs Motion for Partial Summary Judgment and Request for Rule 11 Sanctions, filed. mcs Dkt'd 8-13-86

8-12-86 38 Defts RESPONSE to pltf Briefs regarding defts Motion to Dismiss, filed. mcs
Dkt'd 8-13-86

8-18-86 Motion Hearing (B. Maruffi, Crt Reptr) PN/jlp
G. Young & E. Carter f/pltf; J. Reed, J.R. Hammett & R.C. DeMoss f/defts
Pltf reurged Motion to Remand - Denied
Defts Motion to Stay Discovery - Granted
Pltf's Motion for Permission to Specially File Supporting Documentation- Granted
Other outstanding motions will be considered Sept 15 @ 4:30 p.m.
parties ntfy'd

8-19-86 39 (DH) ORDER Following Conference, filed. Parties ntfd. jlp
(Ct. rptr: Betty Maruffi)

1. Deft's Motion to Dismiss is "on hold."
2. Deft's Motion to Stay Discovery is GRANTED.
3. Pltf's Motion for Partial Summary judgment is "on hold."

4. Pltf's Motion to File Documents in Support of Summary Judgment is GRANTED. (Three volumes filed and copy given to Deft.); (4 volumes with file)

Motions 1 and 3 are set for Sept 15, 1986 at 4:30 p.m. Dkt'd 8-20-86

9-5-86 40 SUPPLEMENTAL BRIEF IN SUPPORT OF DEFTS' MOTION FOR SANCTIONS, filed. jlp Dkt'd 9-10-86

9-9-86 41 SUPPLEMENTAL RESPONSE TO PLTF'S PARTIAL MOTION FOR SUMMARY JUDGMENT, filed. (with exhibits) jlp Dkt'd 9-12-86

9-17-86 43 (DH) ORDER following conf., filed. Parties ntfd. jlp
MOTIONS PENDING: (Crt. Rptr: B Maruffi)

1. Deft's Motion to Dismiss (as to cause of action on wrongful termination)
2. Pltf's Motion for Partial Summary Judgment
3. Deft's Motion for Sanctions
4. Rule 16 Scheduling Order
5. Deft's Motion to Stay Discovery Until Rulings Made on These Motions

Motion #1: Separate order to follow.

Motion #2: Plt's Motion for Partial Summary Judgment is DENIED.

Motion #3: Separate Order to follow.

Motion #4: Rule 16 Scheduling Order signed & filed.

Motion #5: Deft's Oral Motion to Stay Disc. until Rulings Made on all above-ref. motion is GRANTED.

Dkt'd 9-19-86

9-29-86 44 Pltf's RULE 52 MOTION. filed. fs dkt'd 10-1-86

10-9-86 45 PLTF'S BRIEF, filed. jlp Dkt'd 10-16-86

10-21-86 46 (DH) ORDER, filed. Parties ntfd. jlp

1. Court directs defts to submit detailed affidavits of their attnys fees & costs in defending this suit. Submissions are to be filed by close of business Oct 27, 1976.
Pltf has until close of business Nov 10, 1986 to respond

Dkt'd 10-22-86

10-27-86 47 AFFIDAVIT OF JAMES L. REED, JR., w/exhibits, filed. jlp Dkt'd 10-29-86

10-27-86 48 AFFIDAVIT OF ROBERT C. DeMOSS, filed. jlp Dkt'd 10-29-86

10-27-86 49 AFFIDAVIT OF J. RICHARD HAMMETT w/ attached schedule, filed. jlp Dkt'd 10-29-86

11-10-86 51 PLTF'S RESPONSE TO DEFTS AFFIDAVITS IN SUPPORT OF SANCTIONS, filed. jlp Dkt'd 11-13-86

11-10-86 52 AFFIDAVIT OF DONALD J. WILLY w/exhibits, filed. jlp Dkt'd 11-13-86

11-12-86 53 (DH) ORDER FOR SANCTIONS, filed. Parties ntfd. PN/jlp

1. Deft's Motion for Sanctions be GRANTED. Pltf & pltf's counsel, jointly & severally, are to pay $22,625 to defts for purpose of compensating the defts for the attnys fees incurred in responding to pltf's improper pleadings; in particular, pltf's motion for partial summary judgment & response to defts' motion to dismiss. The $22,625 will be tendered to defts attny-in-charge on or before Dec 1, 1986. Proof of pymt will be filed w/court on or before Dec 1, 1986. Dkt'd 11-13-86

11-12-86 54 (DH) MEMORANDUM AND ORDER OF DISMISSAL, filed. Parties ntfd.

1. Pltf's first cause of action, alleging wrongful termination, be DISMISSED pursuant to F.R.C.P. 12(b)6 for failure to state a claim upon which relief can be granted.

2. Pltf's remaining pendant claims (pltf's second, third, fourth, & fifth cause of action) be DISMISSED. PN/jlp Dkt'd 11-13-86

11-12-86 55 (DH) FINAL JUDGMENT, filed. Parties ntfd. jlp

1. Judgment entered for defts in Memorandum and Order of Dismissal.

2. This is a FINAL JUDGMENT. Dkt'd 11-13-86

12-8-86 62 Pltf. NOTICE OF APPEAL to Memorandum & Order of Dismissal, Order of Sanctions and Final Judgment entered Nov 12, 1986, filed. Rec. & Dkt'd 12-9-86 mac

12-11-86 63 George A. Young, Counsel for Pltf. NOTICE OF APPEAL to Memorandum & Order of Dismissal, Order of Sanctions and Final Judgment entered Nov 12, 1986, filed. (Fees NOT Paid.) mac

1-12-87 66 Certified copy of ORDER by Court of Appeals on Dec 19, 1986 DENYING Pltfs'-Appellants Motion for stay pending appeal, filed. mac

1-20-87 69 Pltf. Donald J. Willy's MOTION to Substitute Counsel, filed. Rec. & Dkt'd 1-21-87 mac

1-20-87 70 Pltf's MOTION to Dismiss Counterclaim, filed. Rec. & Dkt'd 1-21-87 (Unopposed Motion) mac

1-22-87 72 (DH) ORDER, filed. Parties ntfd. Rec. & Dkt'd 1-23-87 mac
Pltf's Motion to Substitute counsel is GRANTED and Michael A. Maness is in charge for Pltf. in place of George A. Young, Esquire.

1-22-87 73 (DH) RULE 60(b) MODIFICATION OF JUDGMENT, filed. Parties ntfd.

1. Pltf's Unopposed Motion to Dismiss Counterclaim is DISMISSED without prejudice.

2. It is ORDERED that the FINAL JUDGMENT is MODIFIED to include the dismissal of Defts' Counterclaim. Rec. & DKt'd 1-23-87 mac

1-27-87 75 Pltf. and his former counsel AMENDED NOTICE OF APPEAL to Order entered Nov 12, 1986 and modified on Jan 22, 1987, filed. mac

1-29-87	77	Court Reporter's TRANSCRIPT OF HEARING on Dec 5, 1986, filed. (1 Vol.) mac
3-9-87	79	Court Reporter's TRANSCRIPT OF PROCEEDINGS on Aug 18, 1986, filed. (1 Vol.) Paid and Dkt'd 3-11-87 mac
3-9-87	80	Court Reporter's TRANSCRIPT OF PROCEEDINGS on Sept 15, 1986, filed. (1 Vol.) Paid and Dkt'd 3-11-87 mac
3-27-87		RECORD ON APPEAL consisting of All Original Papers (4 Vols. & 4 Vol. Attachment to #31A), Exhibits (1 Envelope) and Transcripts (3 Vols.) forward to Court of Appeals under SEAL. mac
10-24-88	86	Certified Copy of JUDGMENT by Court of Appeals on Sept. 29, 1988 issued as MANDATE on Oct 21, 1988, REVERSING & REMANDING to District Court, except for the matter of sanctions, to the state court, IT IS FURTHER ORDERED that the district court's sanctions order is set aside, and that phase of the case is remanded to the district court for further proceedings consistent with the opinion of this court. IT IS FURTHER ORDERED that defendants-appellees pay to plaintiff-appellant and respondent-appellant the costs on appeal, filed. bw dkt'd 11-21-88
10-24-88	87	Certified Copy of OPINION by Court of Apeals, filed. bw dkt'd 11-21-88
10-24-88		CASE REOPENED bw
11-15-88	89	PLTF DONALD J. WILLY'S MOTION TO SEVER DEFTS' CLAIMS FOR RULE 11 SANCTIONS AND TO REMAND, filed. bj dkt'd 11-29-88

12-2-88	90	PLTF DONALD J. WILLY'S MEMORANDUM OF LAW ON THE ISSUE OF RULE 11 SANCTIONS, filed. bj dkt'd 12-5-88
12-27-89	91	Defts' Response to Pltf Donald J. Willy's Memorandum of Law on the issue of Rule 11 Sanctions, filed. bj dkt'd 1-4-89
1-17-89	92	(DH) ORDER FOR HEARING, entered. bj parties ntfd Court's records reflect that the following has been filed. Pltfs Motion to Sveer Rule 11; Sanctions & Remand Answer on file. Conf. set. Mar. 27, 1989 at 10:30 a.m.
3-14-89	94	SUPPLEMENTAL AFFIDAVITS IN SUPPORT of Defts' Request for Attys' Fees. filed. fs EOD 3-22-89
3-27-89	95	Defts' RESPONSES to Pltf Willy's Written Interrogatories and Request for Production of Documents. filed. pn/fs EOD 4-4-89
3-27-89	96	(DH) MINUTES OF MOTION HEARING. filed. FS Rptr: F Warner Appearances: Maness f/pltf; Reed f/deft. Pltfs motion to sever - granted. The sanctions issue is the only issue left in this file. All remaining issues go to state court. Court instructed case manager to file defts responses to pltfs interr.; arguments rendered on sanctions issue - parties to submit Judgments by Apr 3, 89. EOD 4-4-89
4-3-89		Recd proposed Order for Sanctions, fwd to crd. fs EOD 4-4-89

4-3-89		Recd Pltf Willy's Proposed Order for Sanctions and Final Judgment, fwd to crd. fs EOD 4-4-89
4-19-89	97	(DH) ORDER FOR SANCTIONS entered. parties ntfd. fs Defts' Motion for Sanctions GRANTED. Pltf and Pltf's counsel at the time, George A Young, jointly and severally, are to pay $19,307.00 to the defts for the purpose of compensating the defts for the attys' fees incurred in responding to the aforementioned Rule 11 violations. The $19,307 will be tendered to defts' atty-in-charge on or before May 1, 1989. Proof of payment will be filed with the Court on or before May 1, 1989.
4-19-89	98	(DH) FINAL JUDGMENT entered. parties ntfd. fs All issues in this case, other than those related to the claims for Rule 11 sanctions are remanded to the 11th Judicial District Court of Harris County, Texas. Pltf Willy and his former counsel, George A. Young, are sanctioned for their violations of Rule 11, F.R.C.P., in the amount of $19,307.00.
5-1-89	99	Pltf MOTION TO STAY ORDER FOR SANCTIONS. filed. fs
5-1-89	100	Pltf MOTION FOR RELIEF UNDER RULE 59, F.R.CIV.P. filed. fs
5-17-89	102	Defts' RESPONSE to Pltf's Motion to Stay Order for Sanctions. filed. fs eod 5-22-89
5-17-89	103	Defts' RESPONSE to Pltf's Motion for Relief Under Fed. R.Civ. P. 59. filed. fs eod 5-22-89
6-30-89	104	Pltf REPLY to Deft's Response to Pltf's Rule 59 Motion. filed. fs eod 7-6-89

12-29-89	106	(DH) ORDER entered. parties ntfd. fs Motion for relief (Doc #100) is DENIED.
01-05-90	107	Pltf's NOTICE OF APPEAL from the final judgment entered on 4-19-89, filed.
4/4/90	109	TRANSCRIPT OF HEARING held on Mar 27, 1989, filed bw (Ctrp: Fred Warner 1 Vol)
4/10/90		RECORD ON APPEAL consisting of all Original Papers (7 Vols & 3 exp. folders-of attach to instr. #31a,), Transcripts (4 Vols) forwarded to Court of Appeals. bw

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 90-2097

DONALD J. WILLY

Plaintiff-Appellant

vs.

THE COASTAL CORPORATION, ET AL.

Defendants-Appellees

Relevant Docket Entries

11-14-90	Appellant's motion to extend time to file petition for rehearing and suggestion for rehearing en banc to 11-14-90, granted.

11-14-90 Appellant's petition for rehearing, suggestion for rehearing en banc, filed

11-27-90 Order denying petition for rehearing, suggestion for rehearing en banc

No. 90-1150

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1991

DONALD J. WILLY,

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versus

THE COASTAL CORPORATION, ET AL.,

Respondents.

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

ORDER

The petition for a writ of ceriorari is granted limited to Question 1 presented by the petition.

June 17, 1991